

# WETLANDS COUNCIL

## MINUTES

February 9, 2016

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The Wetlands Council met on Tuesday, February 09, 2016 in Rooms 112, 113, & 114 at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

**Attendees:** Chairman Chip Kimball, Councilors: Ryan Crosbie, Carol Henderson, James Kennedy, Deborah Lievens, Richard Mellor, Seth Prescott, Russ St. Pierre, Robert Snelling, and Bob Wolff

**Absentees:** Councilor: Susan Slack

Also present were: Paula Scott, Appeals Clerk and Carolyn Guerdet, Council Clerk

The regular Wetlands Council meeting was called to order by Chairman Kimball 8:06 a.m. with introductions and a quorum present.

**1. Approval of Minutes**

- ***Councilor Crosbie made a motion to accept the November 10, 2015 minutes as written, second by Councilor Wolff. Motion passed unanimously.***

**2. Public Input: None**

**3. Status Report**

**I. New Appeals**

**Docket No. 15-12 WtC – N. Miles Cook III Appeal**

Subject: 10/9/15 denial of permit application #2015-00960

Hearing Officer: Not assigned

Status: November 5, 2015 received Petition for Appeal. 11/9/15 issued receipt of Appeal letter. 11/20/15 received Appearance from Atty. Maloney for DES. Council to accept or dismiss at their February 9, 2016 meeting.

- ***Councilor St. Pierre made a motion to accept the appeal, second by Councilor Lievens. Motion passed unanimously.***

**Docket No. 15-13 WtC – John and Toby Heisey Appeal**

Subject: 10/23/15 amendment approval of permit #2012-01642

Hearing Officer: Not assigned

Status: November 12, 2015 received Petition for Appeal. 11/13/15 received Supplement to Certificate of Service and issued receipt of Appeal letter. 11/19/15 received Appearance from Atty. Pollack for the permittee. 11/23/15 received Appearance from Collis Adams. Council to accept or dismiss Appeal at their February 9, 2016 meeting. Chairman Kimball asked Appeals Clerk, Paula Scott, to first give a timeline of the old appeals.

- ***Councilor Snelling made a motion to accept the Appeal, second by Councilor Crosbie. Discussion was held. Motion passed unanimously.***

**Docket No. 15-17 WtC – Rene Montplaisir and Barbara Fraser Appeal**

Subject: 11/10/15 amended Administrative Order No. 11-037 WD

Hearing Officer: Not assigned

Status: 12/31/15 received Notice of Appeal. 1/5/16 issued receipt of Appeal letter. The Appeal appears to be untimely filed. 1/8/16 received Appearance from Atty. Brooks and Motion to Dismiss. 1/8/16 received Objection to Motion to Dismiss. Council to Accept or dismiss at their February 9, 2016 meeting.

Review of appeal and the history was reviewed by Chairman Kimball.

- ***Councilor St. Pierre made a motion to deny the Appeal as untimely and authorized the Chair to issue a ruling consistent with the discussion held, second by Councilor Prescott. Discussion was held. Motion passed unanimously.***

## **II. Decisions that need to be written/finalized and issued.**

### **Docket No. 12-02 WtC – Rene Montplaisir & Barbara Fraser**

Subject: 12/30/11 Administrative Order No. 11-037 WD

Presiding Officer: David Conley

Decision and Order on Appeal was adopted and issued on 3/12/13 remanding the Appeal to the Department. 11/17/15 received DES' Motion to Dismiss. 11/23/15 received Objection to DES' Motion to Dismiss. December 1, 2015 issued letter denying Motion to Dismiss, docket is now closed.

### **Docket No. 15-03 WtC – Dean DeLaHaye Appeal**

Subject: 2/20/2015 approval of permit #2014-00160 issued to The Pointe at Riverfront

Hearing Officer: David Conley, Esq. appointed by AG on 6/18/15

Status: March 20, 2015 received Petition for Appeal. 3/26/15 sent insufficient appeal letter. April 24, 2015 received revised Petition for Appeal. 4/27/15 sent receipt of appeal letter. Council accepted the appeal at the June 9, 2015 meeting. 06/11/15 issued appeal accepted letter. July 13, 2015 issued Pre-hearing Order scheduling hearing for Oct. 13, 2015 at 9 a.m. 7/17/15 received Motion to Amend Appeal. October 5, 2015 issued letter denying Appellant's Motion to Reconsider. Hearing held on October 13, 2015. Council adopted draft Decision and Order at November 10, 2015 meeting and it was issued. Docket now closed.

## **III. Hearings or PHCs Pending**

### **Docket No. 14-16 WtC – David and Louise Drolet, et al. Appeal**

Subject: 11/10/14 permit approval #2014-00246 issued to Green and Company

Hearing Officer: David Conley, Esq. appointed by AG on 3/13/15

Status: 12/10/14 received Notice of Appeal. 12/11/14 issued insufficient appeal letter. 12/24/14 received Amended Notice of Appeal. 12/30/14 issued receipt of appeal letter. Council accepted the appeal at the February 10, 2015 meeting. 2/11/15 issued Appeal accepted letter. 2/20/15 received Appearance from Ari Pollack for permittee. April 17, 2015 issued Notice of scheduled PHC for 4/24/15 at 9 a.m. 4/17/15 received Appearance for Collis Adams. 4/22/15 received Assented-To Motion to Continue. 4/23/15 issued letter granting Motion and rescheduling PHC for 5/13/15 at 11:30 a.m. May 13, 2015 issued Pre-hearing Order scheduling hearing for September 8, 2015 at 9 a.m. 5/15/15 issued Ruling on Validity of Permit Condition. August 6, 2015 received Permit Holder's Witness and exhibit List. 8/13/16 received Assented-To Motion to Continue Final Hearing and Continue Hearing and rescheduling hearing for November 10, 2015 at 9 a.m. 8/20/15 received Partial Objection to Permit Holder's Motion in Limine. 9/25/15 issued Order on Permit Holder's Motion in Limine. October 19, 2015 received Motion to Continue. 10/21/15 received Objection to Appellant's Motion to Continue Hearing. 10/26/15 issued letter granting Motion to Continue and rescheduling hearing for February 9, 2016 at 9 a.m. November 24, 2015 received Appellant's Witness and Exhibit List. Hearing is today.

### **Docket No. 15-06 WtC – James and Carol Rust Revocable Trust Appeal**

Subject: 4/15/15 denial of permit application #2014-01571

Hearing Officer: David Conley, Esq. appointed by AG on 9/14/15

Actions: May 14, 2015 received Preliminary Notice of Appeal(PNA). June 9, 2015 received Notice of Appeal. 6/10/15 issued receipt of Appeal letter. Council accepted appeal at their September 8, 2015 meeting. 9/10/15 issued appeal accepted letter. 9/24/15 issued Notice of PHC scheduled for 10/19/15 at 9:30 a.m. October 13, 2015 received Appearance of Collis Adams. 10/19/15 issued Pre-Hearing Order with 2<sup>nd</sup> PHC scheduled for November 4, 2015 at 9 a.m. 11/4/15 issued 2<sup>nd</sup> Pre-Hearing Order with 3<sup>rd</sup> PHC scheduled for December 14, 2015 at 9 a.m. 12/14/15 issued Pre-hearing Order scheduling a 4<sup>th</sup> PHC for January 11, 2016 at 1:30 p.m. 1/11/16 issued Pre-Hearing Order scheduling a final PHC for 4/11/16 at 9 a.m. and the hearing for May 10, 2016 at 9 a.m.

**Docket No. 15-10 WtC – Christopher John Krochina Appeal**

Subject: 5/11/15 approval of permit #2015-00158 issued to Barbara Ann and Ronald Coburn

Hearing Officer: David Conley, Esq. appointed by AG on 9/14/15

Actions: June 10, 2015 received Petition for Appeal. 6/11/15 issued insufficient appeal letter. July 10, 2015 received Amendment to Petition for Appeal. 7/13/15 issued receipt of Amendment to Petition for Appeal. Not sure of timeliness, depends on what date the Council decides is the date of issuance. Date of Decision (May 9, 2015) or cover letter (May 11, 2015). Council accepted appeal at their September 8, 2015 meeting. 9/10/15 issued appeal accepted letter. 9/25/15 issued Notice of PHC scheduled for 10/19/15 at 10:30 a.m. October 13, 2015 received Appearance of Darlene Forst. 10/15/15 received Appearance of Nicol Roseberry for the permittee. 10/15/15 issued Notice of Rescheduled PHC to November 2, 2015 at 9 a.m. 10/15/15 received Corrected Appearance of Nicol Roseberry. 10/15/15 received Appearance for Ronald Coburn, permittee. 10/26/15 received Appearance of Atty. Christopher Boldt for the permittees. 10/30/15 received Motion to Continue. November 2, 2015 issued Pre-Hearing Order with Hearing scheduled for April 12, 2016 at 9 a.m. 11/16/15 received Motion to Dismiss. 11/23/15 received Objection to Motion to Dismiss. December 23, 2015 issued letter denying Motion to Dismiss. 12/23/15 issued notice of 2<sup>nd</sup> Pre-hearing Conference scheduled for February 8, 2016 at 10:30. 12/23/15 issued ruling on Appellant's Objection to Motion to Dismiss. 2/8/16 issued 2<sup>nd</sup> Pre-hearing Order scheduling a hearing on standing for April 12, 2016 and a hearing on merits for May 10, 2016 if needed.

**IV. Inactive/Status Letter or Pending Settlement/Withdrawal**

**Docket No. 14-12 WtC – Susan and Mark Hilbert Appeal**

Subject: 6/30/14 Administrative Order No. 14-016 WD

Hearing Officer: David Conley, Esq. appointed by AG on 9/12/14

Actions: July 28, 2014 received Notice of Appeal. 7/30/14 issued insufficient appeal letter. August 8, 2014 received revised Notice of Appeal. 8/11/14 issued receipt of Revised Notice of Appeal. Council accepted appeal at the September 9, 2014 meeting. 9/10/14 issued appeal accepted letter. 9/18/14 issued Notice of Prehearing Conference scheduled for October 27, 2014 at 1:00 p.m. 10/13/14 received Appearance from Christopher Aslin for the department. 10/27/14 issued Prehearing Order staying the appeal pending the outcome of the Superior Court Quiet Title action.

**Docket No. 14-13 WtC – Ergendino Perrone and Robert Gleason Appeal**

Subject: 6/30/14 Administrative Order No. 14-016 WD

Hearing Officer: David Conley, Esq. appointed by AG on 9/12/14

Actions: July 30, 2014 received Notice of Appeal. 7/31/14 issued receipt of appeal letter. Council accepted appeal at the September 9, 2014 meeting. 9/10/14 issued appeal accepted letter. 9/18/14 issued Notice of Prehearing Conference scheduled for October 27, 2014 at 1:00 p.m. 10/13/14 received Appearance from Christopher Aslin for the department. 10/21/14 received Assented-To Motion to Stay Proceedings. 10/22/14 issued letter granting Motion to Stay Proceedings. July 1, 2015 received appellant's Withdrawal of Counsel Philip Braley. 7/6/15 received appellant's withdrawal of counsel Cooley Arroyo.

**Docket No. 14-14 WtC – Jeffrey Norton et al. Appeal**

Subject: 6/30/14 Administrative Order No. 14-016 WD

Hearing Officer: David Conley, Esq. appointed by AG on 9/12/14

Actions: July 30, 2014 received Notice of Appeal. 7/31/14 issued insufficient appeal letter. August 6, 2014 received revised Notice of Appeal. 8/7/14 issued receipt of Revised Notice of Appeal. Council accepted appeal at the September 9, 2014 meeting. 9/10/14 issued appeal accepted letter. 9/18/14 issued Notice of Prehearing Conference scheduled for October 27, 2014 at 1:00 p.m. 10/13/14 received Appearance from Christopher Aslin for the department. 10/22/14 received Assented-To Motion to Stay. 10/23/14 issued letter granting Motion to Stay.

**V. Misc.**

**4. New Business**

Chairman Kimball referred to the 2015 Annual Report – change to 2015 in the second paragraph. If any questions, send to Chairman Kimball before he sends it on to the Commissioner.

**5. Old Business**

Chairman Kimball spoke with Council's attorney and the "next meeting" is considered scheduled in the regular order of business.

**6. Next Meetings –**

April 12, 2016 at 8:00 a.m. with a hearing

**7. Adjournment**

- ***Councilor St. Pierre made a motion to adjourn, second by Councilor Crosbie. Motion passed unanimously.***

Meeting adjourned at 9:05 a.m.

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**WETLANDS COUNCIL**

**HEARING MINUTES**

**February 9, 2016**

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The Wetlands Council met for  
Docket No. 14-16 WtC – David and Louise Drolet, et al. Appeal Hearing  
Tuesday, February 9, 2016 in Rooms 112, 113, & 114  
at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

**Attendees:** Councilors:, Ryan Crosbie, Carol Henderson, James Kennedy, Chairman Chip Kimball, Deborah Lievens, Richard Mellor, Seth Prescott, Russ St. Pierre, Robert Snelling and Robert Wolff

**Absentees:** Councilor: Susan Slack

Also present was: Paula Scott, Appeals Clerk

The Hearing was called to order by Hearings Officer David Conley at 9:10 a.m.

The Hearing closed at 4:05 p.m.

Deliberations were scheduled for February 16, 2016 at 9 a.m.

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Deliberations were held on February 16, 2016

**Attendees:** Councilors: Carol Henderson, James Kennedy, Chairman Chip Kimball, Deborah Lievens, Richard Mellor, Seth Prescott, Russ St. Pierre, and Robert Snelling

**Absentees:** Councilor: Susan Slack, Ryan Crosbie, and Bob Wolff

Deliberations started at 9:10 a.m. and closed at 9:55 a.m.